

PATENT

Docket No. 1232-4607



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Masami SUGIMORI
Serial No. : 09/484,989 Group Art Unit: 2612
Filed : January 18, 2000 Examiner: M. Rosendale
For : **IMAGE SENSING APPARATUS AND IMAGE PROCESSING
METHOD THEREFOR**

RESPONSE TO RESTRICTION REQUIREMENT

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COMMISSIONER OF PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

JAN 12 2004

Technology Center 2600

SIR:

In response to the Official Action dated November 17, 2003 in which the pending claims 1-61 were subject to a Restriction Requirement, Applicant submits the following response.

In the Official Action, restriction under 35 U.S.C. §121 is required to one of the following patentably distinct species of the claimed invention:

- 1/10/04
MS*
- I. Figures 1 and 5;
 - II. Figure 6;
 - III. Figure 15; and
 - II. Figure 16.

Applicant provisionally elects the species of Group I (Figures 1 and 5), and the readable claims on that species are claims 1-8 and 30-36, with traverse.

According to M.P.E.P. §803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (1) The inventions must be independent or distinct as claimed; **and**

(2) There must be serious burden on the Examiner if restriction is not required.

For the reasons stated in the Office Action, it is the Examiner's position that because the identified inventions are distinct and have acquired a separate status in the art as shown by the identified different classifications, restriction for examination purposes as indicated is proper. While Applicant does not necessarily agree with the Examiner's reasoning in asserting that the inventions are distinct, Applicant respectfully submits that there would be no serious burden on the Examiner if restriction is not required. Thus, it is Applicant's belief that the Examiner has not met **both** of the requirements for issuing a proper restriction requirement.

Applicant respectfully submits that: (1) all groups of restricted claims are properly presented in the same application; (2) undue diverse searching would not be required; and (3) all claims should be examined together. Applicant respectfully traverses the requirement for restriction on the grounds that searching all of these inventions would not be unduly burdensome and, in fact, an overlap of searching would be necessary to ensure a complete search for a proper examination on the merits of any one of the identified species of inventions.

Accordingly, Applicant respectfully submits that the Requirement for Restriction is improper for at least the reasons stated, and requests that the Restriction Requirement be withdrawn and all pending claims be examined on the merits.

AUTHORIZATION

Should an extension of time be required, such extension is petitioned. The Commissioner is authorized to charge any fees or credit any overpayments which may be required for this paper to Deposit Account Number 13-4500, Order No. 1232-4607. A duplicate

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copy of this sheet is enclosed.

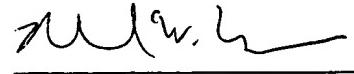
An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: January 5, 2004

By:


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